

1 KEKER, VAN NEST & PETERS LLP  
JOHN W. KEKER - # 49092  
2 jkeker@kvn.com  
JAN NIELSEN LITTLE - # 100029  
3 jlittle@kvn.com  
BROOK DOOLEY - # 230423  
4 bdooley@kvn.com  
NIC MARAIS - # 277846  
5 nmarais@keker.com  
CODY GRAY - # 310525  
6 cgray@keker.com  
633 Battery Street  
7 San Francisco, CA 94111-1809  
Telephone: 415 391 5400  
8 Facsimile: 415 397 7188

9 Attorneys for Defendant  
SUSHOVAN HUSSAIN

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 SUSHOVAN HUSSAIN,

17 Defendant.

Case No. 3:16-cr-00462-CRB

**NOTICE OF MOTION AND MOTION TO  
MODIFY VOLUNTARY SURRENDER  
DATE, RELEASE PASSPORT TO  
DEFENSE COUNSEL, AND ALLOW  
TRAVEL TO PRISON**

Date: June 14, 2019  
Time: 10:00 a.m.  
Dept.: Courtroom 6 - 17th Floor  
Judge: Hon. Charles R. Breyer

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD IN THIS ACTION:**

PLEASE TAKE NOTICE that on June 14, 2019 at 10:00 a.m. or as soon thereafter as counsel may be heard, in Courtroom 6, 17th Floor of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, Defendant Sushovan Hussain will and hereby does move to modify the voluntary surrender date, to release his passport to defense counsel, and to allow him travel to prison.

This motion is based upon the following points and authorities, oral argument, and the pleadings and exhibits on file with the Court.

Respectfully submitted,

Dated: May 30, 2019

KEKER, VAN NEST & PETERS LLP

By: /s/ John W. Keke  
JOHN W. KEKER  
JAN NIELSEN LITTLE  
BROOK DOOLEY  
NIC MARAIS  
CODY GRAY

Attorneys for Defendant  
SUSHOVAN HUSSAIN

**I. REQUEST FOR MODIFICATION OF VOLUNTARY SURRENDER DATE DUE TO PENDING MOTION FOR BAIL PENDING APPEAL**

On May 13, 2019, the Court sentenced Mr. Hussain to 60 months' imprisonment, Dkt. 560, and ordered that he report to the institution designated by the Bureau of Prisons on or before 2:00 p.m. on Monday, June 17, 2019. Dkt. 559. The Court denied Mr. Hussain's request to be released on bail pending appeal.

On May 14, 2019, Mr. Hussain filed a Notice of Appeal. Dkt. 561. The appeal was docketed in the Ninth Circuit Court of Appeals on May 15, 2019. *United States v. Hussain*, No. 19-10168 (9th Cir. May 15, 2019), Dkt. 1. On May 21, 2019, Mr. Hussain filed in the Court of Appeals a motion for bail pending appeal and for a stay of forfeiture. *See id.*, Dkt. 2. Pursuant to Ninth Circuit Local Rule 9-1.2(e), the filing of a motion for bail pending appeal in the Court of Appeals automatically stays the surrender date. *See, e.g., United States v. Fuentes*, 946 F.2d 621, 622 (9th Cir. 1991); *United States v. Brattin*, 13-CR-0161-JAD, 2015 WL 4716234, \*2 (D. Nev. Aug. 7, 2015).

Under Ninth Circuit Local Rule 9-1.1, the Government has 10 days to respond to Mr. Hussain's motion in the Court of Appeals, such that its opposition will be due May 31, 2019. Mr. Hussain then has seven days to reply, such that his reply brief will be due by June 7, 2019. Accordingly, it is possible that a decision on Mr. Hussain's pending Ninth Circuit bail motion may occur after, or immediately before, the current reporting date of June 17, leaving Mr. Hussain with no notice of when exactly he ought to report.

To ensure Mr. Hussain's ability to travel in an orderly and timely fashion to the designated institution (which the defense hopes will be FCI Allenwood Low in Pennsylvania), we ask that the Court modify its voluntary surrender order to require that Mr. Hussain report to the designated institution no later than seven days after the issuance of an order from the Court of Appeals denying Mr. Hussain's motion for bail pending appeal.

**II. REQUEST FOR RELEASE OF PASSPORT TO DEFENSE COUNSEL**

Mr. Hussain's defense counsel, John W. Kecker, plans to accompany him to report to the institution designated by the Bureau of Prisons. Assuming that Mr. Hussain is designated to FCI

Allenwood Low, Mr. Hussain and Mr. Keker will need to fly to Newark, New Jersey, and then drive three hours to Allenwood, Pennsylvania. To board a plane, Mr. Hussain will need his passport. Accordingly, we request that the Court order Pretrial Services to release Mr. Hussain's passport to Mr. Keker one business day before he and Mr. Hussain leave San Francisco to travel to the designated facility. Mr. Keker will keep the passport in his possession or control at all times. Once Mr. Hussain is in custody, we will make a motion for exoneration of bail and permanent release of the passport.

### III. REQUEST TO ALLOW TRAVEL TO PRISON

As one of the conditions of his release, Mr. Hussain has not been allowed to travel outside the Northern District of California and has been required to stay away from airports. So that he can report to prison by the required date, Mr. Hussain now requests an order stating that he is allowed to (1) be present at an airport; (2) fly from San Francisco International Airport to Newark Liberty International Airport; and (3) be present outside of the Northern District of California as he travels from San Francisco to Allenwood, Pennsylvania.

Respectfully submitted,

Dated: May 30, 2019

KEKER, VAN NEST & PETERS LLP

By: /s/ John W. Keker  
 JOHN W. KEKER  
 JAN NIELSEN LITTLE  
 BROOK DOOLEY  
 NIC MARAIS  
 CODY GRAY

Attorneys for Defendant  
 SUSHOVAN HUSSAIN